IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4006 OF 2006

Dattaprasad Y. Pednekar and Anr. ..Applicants

Versus

The State of Maharashtra ..Respondent

Mr. A.P.Mundargi, Sr. Counsel with Mr. N.N.Patil for applicants.

Mr. Rajesh More, APP for State

CORAM : S.C.DHARMADHIKARI,J.

DATE : 20TH NOVEMBER, 2006

P.C.:

1. The applicants are arrested in connection with C.R.No.137 of 2006. The offences alleged are punishable under Sections 302 read with 34 of IPC.

2. Mr. Mundargi, the Sr. Counsel appearing for the

applicants invites my attention to a copy of the statement of brother of the deceased at Annexure-A and submits that as far as the incident is concerned, the role attributed to the present applicants is of holding the deceased only. Neither the applicants were armed with any weapon nor are they charged with assaulting the deceased. The uncle of co-accused Babloo is the owner of the premises. The said premises were not vacated and that is how the complainant alleges that his family members were from time to time threatened by the accused Babloo. While it may be true, according to Shri Mundargi, that the applicants are present at the site but beyond holding the deceased there is no role attributed to them.

3. The learned APP relies upon the statement of other eye witnesses and submits that the assault is by the co-accused Babloo. The weapon is knife. The applicants as also one Akshay Chougule held the deceased.

4. In my view, considering the limited role attributed to the applicants and in facts peculiar to them the present application can be considered. More so, in the light of the statement made in the application itself that the applicants are willing to reside outside Kolhapur

City limits till conclusion of the trial. Hence the following order :

O R D E R :

(i) The applicants shall be enlarged on bail in connection with C.R.No.137 of 2006 registered at Juna Rajwada Police Station, Kolhapur in the sum of Rs.10,000/= each with one or two local sureties in the like sum;

(ii) The applicants to reside upon release outside limits of Kolhapur City and to report at a closed Police Station once in a fortnight till conclusion of the trial.

(iii) The bail is granted subject to condition that the applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The applicants shall cooperate with the Trial Court for expeditious disposal of the trial.

Any attempt by the applicants to delay the trial may be a ground for cancellation of bail.

(v) Any observation/s made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Application is disposed of in above terms.

(S.C.Dharmadhikari, J.)